

Exhibit 8

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 Case No. 19-MD-02913-WHO
4

5 IN RE: JUUL LABS, INC.
6 MARKETING, SALES PRACTICES
7 AND PRODUCTS LIABILITY LITIGATION
8 _____ /

9
10 VIDEOTAPED DEPOSITION

11 DAVID CUTLER PhD

12 Boston, Massachusetts

13 Friday, May 6, 2022
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17 REPORTED BY:

18 DEBORAH ROTH, CSR, RPR

19 JOB NO. 210657
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1 and third methods were regression --

2 Q. Right.

3 A. -- used regression analysis.

4 Q. So method 3 was a regression where

5 you considered various personal factors

6 and also state regulations and policies

7 and then you looked to determine whether

8 they explained the movement in underage

9 vaping in 2017 and '18, fair?

10 A. Yes. That's a very good summary.

11 Thank you.

12 Q. And then in your -- in your

13 Bellwether report, you've also done, I

14 think you say that I'm using the same

15 method 3, and using that method you look

16 for but-for vaping results in the

17 specific Bellwether communities; is that

18 fair?

19 A. Yes. That is correct.

20 Q. Okay. Now, in your first report

21 you agreed that that method 3 regression

22 does not rule in a causal factor for

23 youth vaping, correct?

24 A. I'm sorry, I didn't understand what

25 you meant by the last part of the

1 A. That's correct, yes.

2 Q. But, in fact, the way that the
3 but-for vaping rates are -- are
4 determined for the Bellwether specific
5 communities does not use exactly the same
6 steps as the work that you did for making
7 the national prediction, correct?

8 A. I think that's incorrect.

9 Q. Okay. So the first step of the
10 national regression was a model that --
11 estimating a model based upon individual
12 data. The first step of the Bellwether
13 regression is not estimating a model,
14 correct? You use the same coefficients
15 that you -- that you got from the first
16 regression that you did in your generic
17 report, right?

18 A. That's correct. I used the same
19 regression as in the generic report.

20 Q. You used the results of the
21 regression. You didn't do it in the same
22 -- you used coefficients that were
23 derived from individual responses in --
24 in the YRBS. That estimated the model.

25 And the second exercise for your

1 have been asked that I intend to offer.

2 Q. Is this research that you're
3 mentioning, is that consistent with your
4 keeping up with the literature that you
5 referred to when you were talking about
6 how you prepared?

7 A. Keeping up with the literature,
8 trying to write articles in the
9 literature and things like that.

10 Q. Is any of this research that you
11 are describing, is it specific to JUUL?

12 A. No. None of the research is
13 specific to JUUL.

14 Q. Let's talk a little bit about your
15 opinions with respect to Altria. And I'm
16 looking at your January report. You
17 write that you considered the question:
18 Did the actions of Altria have a causal
19 impact on the use of vaping products by
20 youth in the Bellwether areas?

21 Is that the question that you've
22 considered with respect to Altria?

23 A. Yes, that is the question that I
24 considered with respect to Altria.

25 Q. Are there any other questions that

1 you are considering with respect to

2 Altria in particular?

3 A. No, that -- that's the only

4 question about Altria.

5 Q. And then your opinions that

6 correspond to that question, those are

7 all contained in Section 4 and the

8 corresponding appendices of your January

9 report?

10 A. The specific ones about Altria,

11 yes. For some of the context,

12 obviously, one needs the other parts of

13 the report, but those specific opinions

14 are in Section 4.

15 Q. And are you offering any other

16 opinions with respect to Altria that are

17 not contained in Section 4?

18 A. No. Except, you know, except as

19 regards like I obviously have general

20 opinions about the marketing here that

21 are not specific to Altria, but some of

22 which would be applicable to the period

23 of time where Altria was involved.

24 Q. Yeah. I think I understand you.

25 And hopefully you understand me. I'm

1 really focusing just on making sure we're
2 identifying the opinions that are
3 specific to Altria --

4 A. Uh-huh.

5 Q. -- and it sounds like we are in
6 agreement that that's contained in
7 Section 4?

8 A. Yes, that's correct.

9 Q. With respect to Altria, you
10 examined two particular actions that it
11 took, some store visits and the ITP
12 program; is that correct?

13 A. That's correct. As we discussed in
14 the last deposition, Altria did have
15 other things that it did, for example,
16 helping with the PMTA, and so on, but in
17 terms of what I analyzed specifically, I
18 analyzed those two sets of actions.

19 Q. So on that point you are not
20 offering any analyses with respect to
21 impact, if any, of Altria's help
22 regarding JUUL's PMTA, correct?

23 A. I have not offered a quantitative
24 opinion on that, no. I -- I talk in
25 the, particularly in the September

1 effective.

2 Q. But, again, just to be clear, you
3 have not quantified that in any way?

4 A. I have not quantified the
5 independent impact of those specific
6 programs.

7 Q. And the same is true for Altria's
8 direct marketing services, you have not
9 quantified the impact of any of those
10 services?

11 A. That's correct. I have not
12 quantified the impact of them. To the
13 extent that they show up in, you know,
14 more sales, you know, some of them would
15 be captured by the impact of the Blitz,
16 and the ITP reset and the general
17 distribution, but I've not quantified
18 them empirically.

19 Q. And the empirical quantification
20 that you have done, that is limited to
21 the store visits and the ITP program,
22 correct?

23 A. That's correct. The empirical
24 quantification looks at those with the
25 understanding that those other programs

1 are, if you will, in the background

2 supporting them.

3 Q. And with respect to store visits

4 you've conducted a regression analysis,

5 right?

6 A. That's correct. I use a regression

7 analysis similar to the September report

8 to look at the impact of the Blitz

9 program.

10 Q. And the store visits that you

11 looked at, to state the obvious, those

12 were to retail stores?

13 A. That's correct, yes, they were to

14 retail stores.

15 Q. Retail stores are required to

16 verify the age of customers who purchase

17 products, or e-cigarettes in this case?

18 A. Yes. My understanding is they were

19 required to do age verification.

20 Q. Regressions that you provide with

21 respect to store visits, they estimate

22 retail sales with respect to certain

23 stores, right?

24 A. That's correct. They look at

25 whether stores that received visits or

1 Q. In your regression analysis you
2 don't tell us who the consumer of the
3 product is, right?

4 A. They do not. We have certain
5 indications about who the consumer is
6 because we know that the products that
7 are most influenced are the mint
8 products that are very heavily consumed
9 by youth. So it's the flavored
10 products. And flavored products had a
11 particular appeal to youth.

12 We also know that in 2019 based
13 on the September report, roughly -- my
14 estimate is that roughly half of JUUL
15 products were used by youth.

16 So I -- I have a strong basis
17 for believing that a lot of those sales
18 were to youth, but I don't have a
19 quantitative estimate of how many, of,
20 you know, saying, okay, this number of
21 the -- of the pods in this store were
22 consumed by youth.

23 Q. And, Professor Cutler, I appreciate
24 your point of view. I think my question
25 was much simpler than that, and just in

1 CERTIFICATE

2 COMMONWEALTH OF MASSACHUSETTS)

3 COUNTY OF SUFFOLK)

4 I, Deborah Roth, a Registered

5 Professional Reporter and Notary Public

6 duly commissioned and qualified in and

7 for the Commonwealth of Massachusetts, do

8 hereby certify: That DAVID CUTLER, the

9 witness whose deposition is hereinbefore

10 set forth, was duly identified and sworn

11 by me, and that the foregoing transcript

12 is a true record of the testimony given

13 by such witness to the best of my

14 ability.

15 I further certify that I am not

16 related to any of the parties in this

17 matter by blood or marriage, and that I

18 am in no way interested in the outcome of

19 this matter.

20 IN WITNESS WHEREOF, I have

21 hereunto set my hand and affixed my

22 notarial seal this 8th day of May 2022.

23 _____

24 Deborah Roth, CSR: 14700-S, RPR: 34250

25 My Commission Expires: December 15, 2028